

Message Text

CONFIDENTIAL

PAGE 01 MOSCOW 07351 01 OF 02 161518Z

53

ACTION DLOS-07

INFO OCT-01 AF-10 EUR-25 EA-11 IO-14 ISO-00 ARA-16 NEA-14

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AMEMBASSY KINSHASA

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C O N F I D E N T I A L SECTION 1 OF 2 MOSCOW 7351

KINSHASA PASS LOS DEL MOORE

FROM LOS DEL

E.O. 11652: GDS

TAGS: PBOR

SUBJECT: LOS: U.S. -SOVIET CONSULTATIONS: MAY 13-15

1. SUMMARY. U.S. LOS TEAM LED BY AMBASSADOR STEVENSON MET WITH SOVIETS MAY 13 AND 14, AND CALLED ON DEPUTY FOREIGN MINISTER KOZYREV AT HIS REQUEST FOR ONE HOUR MORNING OF MAY 15. U.S. AND SOVIET DELS REVIEWED IN DETAIL DRAFT CHAPTER ON ECONOMIC ZONE PREPARED IN LONDON AT GROUP OF FIVE MEETING AND CONSIDERED SEABEDS, SCIENTIFIC RESEARCH, ARCTIC AND ARCHIPELAGO ISSUES, RULES OF PROCEDURE
CONFIDENTIAL

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PAGE 02 MOSCOW 07351 01 OF 02 161518Z

AND ORGANIZATION OF WORK AT CARACAS CONFERENCE. REPORT

ON DEEP SEABEDS DISCUSSIONS CABLED SEPARATELY. AT VERY HELPFUL LUNCHEON GIVEN BY AMBASSADOR STOESSEL SOVIETS INDICATED IMPORTANCE THEY ATTACH TO LOS BILATERAL CONSULTATIONS WITH U.S. NOT ONLY FOR LOS REASONS BUT IN TERMS OF BROADER BILATERAL COOPERATION, AND INDICATED THIS SHOULD CONTINUE BEYOND LOS TREATY. END SUMMARY.

2. SOVIET LOS TEAM CONSISTED OF ROMANOV, DEPUTY CHIEF, MFA TREATY AND LEGAL DIVISION; KOVALEV, DEPUTY CHIEF, MFA TREATY AND LEGAL DIVISION; BARABOLYA, CHIEF OF INTERNATIONAL LAW DIVISION OF SOVIET NAVY; VOLKOV, DEPUTY DIRECTOR, DEPARTMENT OF FOREIGN RELATIONS, MINISTRY OF FISHERIES; AND YAKOVLYEV, COUNSELOR, MFA TREATY AND LEGAL DIVISION.

3. AT OPENING SESSION MAY 13 IT WAS AGREED TO CONSIDER ECONOMIC ZONE QUESTIONS, ORGANIZATION OF WORK, DEEP SEABEDS, SCIENTIFIC RESEARCH AND, AT SOVIET SUGGESTIONS, CLARIFICATION OF U.S. ARCHIPELAGO PROPOSALS.

4. ECONOMIC ZONE. U.S. AND SOVIET DELS REVIEWED CHAPTER ON ECONOMIC ZONE TO BE USED IN CONTEXT EVENSEN CONSULTATIONS. DRAFTING GROUP MADE REVISIONS. REVISED DRAFT OF CHAPTER AIRPOUCHED TO DEPARTMENT (D/LOS).

5. SEABED LIMITS. ROMANOV, AFTER POSING QUESTION AS TO HOW SHELF BOUNDARY SHOULD BE DEFINED, REFERRED TO SOVIET PROPOSAL ON LIMITS (500 METERS OR 100 MILES) AS TENTATIVE AND SAID USSR IN PROCESS OF STUDYING BOUNDARY QUESTION. HE MADE CLEAR THAT USSR COULD ACCEPT 200-MILE LIMIT BUT WAS NOT CERTAIN ABOUT AREA BEYOND.

6. FISHERIES. DISCUSSIONS CENTERED ON CONTENT OF REGIME IN 200-MILE ZONE AND SPECIFIC PROBLEMS IN THIS REGARD. FOLLOWING ISSUES DISCUSSED:

CONFIDENTIAL

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PAGE 03 MOSCOW 07351 01 OF 02 161518Z

A. ANADROMOUS SPECIES. SOVIETS WOULD PREFER BAN ON HIGH SEAS SALMON FISHING AND "SOVEREIGN" RATHER THAN "PREFERENTIAL" RIGHTS FOR HOST STATE. THEY STATED, HOWEVER, THAT JAPAN WILL WISH TO CONTINUE TO FISH SALMON ON HIGH SEAS AND THAT "WE" (PRESUMABLY USSR AND U.S.) WILL HAVE TO DEVISE WAY TO SATISFY JAPANESE. SOVIETS INDICATED IN THIS REGARD THAT THEIR BILATERAL SALMON AGREEMENT WITH JAPAN WOULD NOT CONTINUE IN

FORCE AFTER LOS TREATY.

B. COSTAL SPECIES. SOVIETS AGREE TO COASTAL STATE JURISDICTION, SUBJECT TO FULL UTILIZATION, WITHIN 200-MILE ZONE. BEYOND 200 MILES, THEY DO NOT WANT COASTAL STATE MANAGEMENT AUTHORITY OR PREFERENTIAL RIGHTS. THEY STATED THEY WOULD ACCEPT BILATERAL ARRANGEMENTS BEYOND 200 MILES OF FLAG STATE DUTY BEYOND ZONE NOT TO INTERFERE WITH CONSERVATION OF RESOURCES WITHIN ZONE.

C. HIGHLY MIGRATORY. U.S. VIEWS ON HIGHLY MIGRATORY SPECIES ARE ACCEPTABLE, BUT SOVIETS EVIDENCED NO INDEPENDENT INTEREST IN MATTER.

D. ENFORCEMENT. SOVIETS VERY CONCERNED OVER PROBLEM OF IMPRISONMENT OF THEIR FISHERMEN. THEY PREFER EXISTING U.S. PROPOSAL FOR COASTAL STATE RIGHT OF INSPECTION AND ARREST, AND TURNOVER OF VESSEL TO FLAG STATE FOR TRIAL AND PUNISHMENT WHERE FLAG STATE HAS MECHANISM TO DO SO. IT APPEARS THEY ARE PREPARED TO ACCEPT COASTAL STATE FINES IF NECESSARY. BEYOND 200 MILES, THEY ENVISION JOINT ENFORCEMENT SCHEMES "SUCH AS WE HAVE NOW," AND DO NOT AGREE THAT COASTAL STATE CAN ENFORCE BEYOND THE ZONE EXCEPT FOR SALMON.

E. ACCESS. THIS IS ISSUE FO OBVIOUS IMPORTANCE TO USSR. SOVIETS ACCEPTED U.S. ARTICLES WITH MODIFICATION TO ENSURE THAT RIGHT OF ACCESS TO UNUTILIZED PORTION OF ALLOWABLE CATCH IS ABSOLUTE AND SUBJECT ONLY TO PRIORITY LISTING FOR TRADITIONAL FISHING, ETC. THEY ACCEPT RIGHT OF COASTAL STATE TO ESTABLISH REGUALTIONS AND TO CHARGE LICENSE FEES. IN ADDITION, SOVIETS
CONFIDENTIAL

CONFIDENTIAL

PAGE 04 MOSCOW 07351 01 OF 02 161518Z

PROPOSED ADDING "STATES THAT HAVE CONDUCTED SIGNIFICANT SCIENTIFIC RESEARCH CONCERNING THE RESOURCE" INTO TRADITIONAL FISHING PROVISION. U.S. POINTED OUT OBVIOUS PROBLEMS WITH THIS PROVISION, AND IT APPEARS SOVIETS HAVE DROPPED THE IDEA AT LEAST FOR NOW. (COMMENT: SOVIETS HAVE CONDUCTED EXTENSIVE FISHERIES RESEARCH ON ARGENTINE SHELF AND IN INDIAN OCEAN, AND APPARENTLY PLAN TO CONDUCT FISHING OPERATIONS THERE. THEY FEEL THIS PROVISION IS WAY TO GAIN PRIORITY OF ACCESS.) SOVIETS RELUCTANTLY AGREED THAT ANY TRADITIONAL FISHING ALLOCATION SHOULD BE RELATED TO PAST EFFORT. THEY INDICATED THEY COULD ACCEPT INCLUSION OF PROVISIONS DERIVED FROM EVENSEN DRAFT COASTAL STATE CHAPTER WHICH WOULD GIVE PRIORITY OVER TRADITIONAL FISHING TO ADJACENT LANDLOCKED, AND, PURSUANT TO

AGREEMENT WITH COASTAL STATE, NEIGHBORING STATES, WHICH HAVE TRADITIONALLY FISHED OR ARE DEPENDENT ON FISHERIES IN THE ZONE.

F. ALLOWABLE CATCH. ALTHOUGH SOVIETS STATED THAT IN DETERMINING ALLOWABLE CATCH, THE COASTAL STATE MUST RPT MUST TAKE RECOMMENDATION OF "AN INTERNATIONAL FISHERIES ORGANIZATION," THEY DID NOT OBJECT TO THE TEXT THAT ONLY PROVIDES FOR TAKING RECOMMENDATIONS INTO ACCOUNT.

7. MARINE SCIENTIFIC RESEARCH. SOVIETS STRONGLY DESIRE TO ENSURE THAT NOTHING IS DONE TO ABROGATE PRINCIPLE OF FREEDOM OF SCIENTIFIC RESEARCH. THEY ASKED THAT U.S. INSERT SPECIFIC PROVISION IN THE ECONOMIC ZONE DRAFT SIMILAR TO PARAGRAPH 9 OF USSR DRAFT ARTICLES TO EXCLUDE SCIENTIFIC RESEARCH INSTALLATIONS FROM RULES GOVERNING OTHER OFFSHORE INSTALLATIONS IN ZONE, BUT FINALLY AGREED TO PROVISION LIMITING INSTALLATION REGULATIONS TO THOSE USED FOR ECONOMIC PURPOSES. ADDITIONAL MAJOR POINTS COVERED IN DISCUSSION ON SCIENCE WERE:

A. DURING THEIR RECENT CONSULTATIONS, SOVIETS MADE IT CLEAR TO LDC'S THAT USSR ACCEPTANCE OF 200-MILE ZONE WAS CONTINGENT ON THREE THINGS - 12-MILE TERRITORIAL

CONFIDENTIAL

PAGE 05 MOSCOW 07351 01 OF 02 161518Z

SEA; FREEDOM OF NAVIGATION IN STRAITS; AND FREEDOM OF SCIENTIFIC RESEARCH. SOVIETS STATE REACTION FROM LDC'S TO SCIENCE ASPECT OF THIS PROPOSITION WAS ESSENTIALLY NEGATIVE, BUT THAT THEY INTEND TO "PUSH ON THIS," AND SPECIFICALLY MENTIONED POSSIBILITY OF GIVING LDC'S RESEARCH VESSELS OR PROVIDING SCIENTIFIC TRAINING.

B. SOVIETS STATED THAT THEY HAD REVISED THEIR DEFINITION OF SCIENTIFIC RESEARCH AND NOW CONSIDERED THAT RESEARCH CONCERNING MINERALS OF SEABED AND SUBSOIL, AS WELL AS LIVING RESOURCES, WAS NOT RPT NOT FUNDAMENTAL SCIENTIFIC RESEARCH.

C. IN WATER COLUMN, SOVIETS STATED THAT ALTHOUGH THEY FELT THEIR OPENING POSITION AT CARACAS SHOULD BE FOR COMPLETE FREEDOM IN THE WATER COLUMN, THEY WOULD ULTIMATELY ACCEPT OBLIGATIONS IN U.S. ARTICLES ON MARINE SCIENTIFIC RESEARCH (ARTICLE 7) IF SUB-PARAGRAPHS (C) (D), AND (E) WERE REWORDED SO AS TO BE LESS RIGID. THEY DID NOT GIVE SPECIFIC REWORDING, BUT ARE CONSIDERING PREPARING A DRAFT.

CONFIDENTIAL

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PAGE 01 MOSCOW 07351 02 OF 02 161539Z

53

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C O N F I D E N T I A L SECTION 2 OF 2 MOSCOW 7351

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FROM LOS DEL

D. CONCERNING THE CONTINENTAL SHELF, SOVIETS STATED INITIALLY THEY CONTINUED TO SUPPORT SCIENTIFIC RESEARCH PROVISION IN 1958 CONVENTION. DURING DISCUSSION, HOWEVER, IT BECAME CLEAR THAT THEIR CONCERN IS WITH DRILLING OR OTHER ACTIVITIES WHICH COME IN CONTACT WITH SHELF. THEY DID NOT APPEAR TO HAVE CONSIDERED WHETHER THEIR PROBLEMS CAN BE SOLVED BY PROVISIONS FOR CONSENT FOR DRILLING ON THE SHELF. SOVIETS ALSO OF OPINION THAT SEISMIC WORK OR OTHER "NON-CONTACT" RESEARCH CONCERNING THE SHELF WOULD BE PERMITTED UNDER THEIR APPROACH. U.S. POINTED OUT THAT THIS WAS MINORITY OPINION AMONG NATIONS TODAY, ALTHOUGH WE
CONFIDENTIAL

CONFIDENTIAL

PAGE 02 MOSCOW 07351 02 OF 02 161539Z

HAVE INTERPRETED SHELF CONVENTION IN THIS MANNER.

E. SOVIETS STATED THAT SCIENCE ISSUE WAS A VERY
DIFFICULT ONE, BUT THEY FELT U.S. AND SOVIETS POSITIONS
WERE VERY CLOSE, AND ALTHOUGH THEY COULD NOT AGREE
WITH U.S. ARTICLES AT PRESENT TIME, THESE ARTICLES
"MIGHT BE THE ONES TO HIT THE MARK" ULTIMATELY.

7. PROTECTION OF MARINE ENVIRONMENT. SOVIETS RAISED
QUESTION OF PROVISION GIVING COASTAL STATE RIGHT TO
APPLY ENVIRONMENTAL STANDARDS HIGHER THAN INTERNATIONAL
STANDARDS TO RESOURCE ACTIVITIES, AND ASKED WHETHER THIS
WOULD APPLY TO OPERATION AND CONSTRUCTION OF FISHING
VESSELS. SOVIETS INDICATED SUCH AN APPLICATION WOULD
BE UNACCEPTABLE SINCE IT COULD BE USED AS AN INDIRECT
FORM OF DISCRIMINATION AGAINST ACCESS BY A DISTANT
WATER FISHING STATE. ACCORDINGLY, U.S. APPROACH
WOULD BE RETAINED OF HIGHER STANDARDS ONLY FOR SEABED
ACTIVITIES AND INSTALLATIONS SUBJECT TO COASTAL STATE
JURISDICTION.

8. PREVENTING UNJUSTIFIABLE INTERFERENCE WITH
NAVIGATION. SOVIETS ARGUED AGAINST ROLE FOR
SEABED AUTHORITY IN ELABORATING STANDARDS. AT FINAL
MEETING, THEY TENTATIVELY ENDORSED VOTE FOR IMCO.

9. INTEGRITY OF INVESTMENT. SOVIETS STATED THAT
REFERENCE TO "NATIONALS" IN CONNECTION WITH INVESTMENTS
AND EXPROPRIATION CLAUSE CREATES POLITICAL AND
IDEOLOGICAL PROBLEMS FOR USSR. THEY INDICATED THAT
USSR COULD ACCEPT ARTICLE IF U.S. CAN GET LDC'S TO
AGREE TO USE OF TERM "NATIONALS" BUT COULD NOT SUPPORT
U.S. ON THIS QUESTION.

10. REVENUE SHARING. SOVIETS ARGUED STRONGLY AGAINST
PROVISION FOR REVENUE SHARING WITHIN THE ECONOMIC
ZONE, AND AT ONE POINT ROMANOV SAID REVENUE SHARING
WOULD MAKE ENTIRE TREATY UNACCEPTABLE TO USSR.

11. ARCHIPELAGOS. U.S. ARCHIPELAGO PROPOSALS WERE
REVIEWED. SOVIETS STATED INDONESIAN DELEGATION
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PAGE 03 MOSCOW 07351 02 OF 02 161539Z

ARRIVING MOSCOW LATER IN MANTH FOR TALKS ON ARCHI-
PELAGOS. THEY STATED THAT USSR DOES NOT WISH TO DEPART

MATERIALLY FOR U.S. ARCHIPELAGO PROPOSALS IN THESE TALKS. SOVIETS SOUGHT CLARIFICATION OF SEVERAL ASPECTS OF PROPOSAL INCLUDING MEANING OF "NORMAL PASSAGE ROUTES," FROM WHAT BASELINE ARCHIPELAGO WOULD MEASURE TERRITORIAL SEA AND ECONOMIC ZONE, AND APPLICATION OF ARCHIPELAGO CONCEPT TO STATES WITH LARGE MAINLAND AREAS. THEY ALSO ASKED ABOUT INDONESIAN REACTION TO U.S. INITIATIVES. SOVIETS SAID THEY WOULD STUDY U.S. PROPOSALS FOR DEFINITION.

12. SOVIET LOS INITIATIVES. AT U.S. REQUEST, SOVIETS OUTLINED BRIEFLY RECENT SOVIET INITIATIVES WITH LDC'S. THEY STATED THAT SOVIET PROPOSALS ON ECONOMIC ZONE MET WITH FAVORABLE RESPONSE. ONLY SERIOUS QUESTION RAISED WAS RESISTANCE TO ANY INTERNATIONAL STANDARDS LIMITING ROLE OF COASTAL STATE IN SETTING ALLOWABLE CATCH. USSR HAD MADE CLEAR THAT ECONOMIC ZONE PROPOSAL IS ONLY PART OF COMPREHENSIVE PACKAGE WHICH INCLUDES A 12-MILE TERRITORIAL SEA, FREEDOM OF NAVIGATION, AND SCIENTIFIC RESEARCH. SOME COUNTRIES STATED USSR POLICY ON ZONE WOULD FACILITATE ACCEPTANCE OF TRANSIT REGIME IN INTERNATIONAL STRAITS; OTHERS REMAINED SILENT. ACCORDING TO SOVIETS, PERU IS INCLINED TO TAKE A MORE FAVORABLE POSITION ON STRAITS ISSUE. TUNISIA AND MEXICO INDICATED THEY HAD COMMITMENTS TO STRAITS STATES, COULD NOT SUPPORT SOVIET POSITION, AND IF ISSUE CAME TO VOTE WOULD PROBABLY HAVE TO VOTE AGAINST UNIMPEDED TRANSIT.

13. U.S. RAISED ARCTIC POLLUTION QUESTION, NOTING GREAT CANADIAN INTEREST IN ISSUE, AND STRESSED NEED TO WORK WITH CANADA IN ORDER TO REDUCE PRESSURE IN LOS NEGOTIATIONS. WE ASKED WHETHER THERE WAS POSSIBILITY TO WORK OUT AN ARCTIC REGIME. SOVIETS WERE NEGATIVE, URGED THAT ARCTIC QUESTION BE KEPT OUT OF LOS NEGOTIATIONS ENTIRELY, AND THAT THERE COULD NOT BE INTERNATIONAL REGIME FOR ARCTIC. SOVIETS STRESSED THAT IT IS NOT POSSIBLE TO SEPARATE LAND AND MARINE INTERESTS IN ARCTIC AREA AS EACH AFFECTS OTHER.
CONFIDENTIAL

CONFIDENTIAL

PAGE 04 MOSCOW 07351 02 OF 02 161539Z

14. PROGRAM OF WORK. STEVENSON, NOTING THAT EVENSEN (NORWAY) PLANS TO CIRCULATE NEW DRAFT TREATY ARTICLES PRIOR TO CARACAS, SUGGESTED THAT IT IS NECESSARY TO PREPARE ALTERNATE DRAFT ARTICLES ON ECONOMIC ZONE REFLECTING MORE FAVORABLE VIEWS TO BE GIVEN TO EVENSEN IN ADVANCE OF CARACAS EVEN IF ALL PARTS NOT COMPLETELY AGREED UPON WITHIN GROUP OF FIVE. SOVIETS

GREED. STEVENSON SAID HE WILL CONSULT WITH JACKLING (UK) AND JEANNEL (FRANCE) USING ECONOMIC ZONE ARTICLES AS MODIFIED IN MOSCOW CONSULTATIONS, AND SOVIETS INFORMED OXMAN WILL DISCUSS THEM WITH SUGIHARA IN TOKYO.

15. STEVENSON WARNED OF EFFECT ON U.S. CONGRESS OF PROLONGED DEBATE AT CARACAS ON RULES OF PROCEDURE, AND NEED FOR TANGIBLE PROGRESS IN ECONOMIC JURISDICTION.

16. EVENING MAY 14, FOREIGN MINISTRY REQUESTED THAT AMBASSADOR STEVENSON, OXMAN, RATINER, AND ADMIRAL MORRIS MAKE CALL ON DEPUTY FOREIGN MINISTER KOZYREV, WHO HAS OVERALL RESPONSIBILITY IN MFA, MORNING MAY 15. (PRIOR HIGH LEVEL COMMITMENT REQUIRING EARLY MORNING DEPARTURE PREVENTED MORRIS FROM ATTENDING.) AT MEETING KOZYREV EXPRESSED SATISFACTION AT RESULTS OF CONSULTATIONS, AND SAID OUR VIEWS ARE VERY CLOSE ON MAJOR QUESTIONS. HE THEN NOTED THAT WE DID NOT REACH AGREEMENT ON ONLY ONE ISSUE, THE CONTINENTAL SHELF. THE QUESTION HAS TWO PARTS.

A. REVENUE SHARING. USSR DOUBTS IT IS ADVISABLE TO RAISE THIS QUESTION, AND ALSO DOUBTS WHETHER COASTAL STATES, OTHER THAN U.S., WOULD AGREE. AFTER STEVENSON EXPLAINED RELATIONSHIP TO LANDLOCKED-SHELF LOCKED AND SEABED LIMITS PROBLEM, KOZYREV INQUIRED ABOUT LIMITING REVENUE SHARING BENEFITS TO LANDLOCKED COUNTRIES. (IN SUBSEQUENT PRIVATE CONVERSATION, MOVCHAN INDICATED DIFFICULTY OF WITHDRAWING PUBLIC OFFER BY PRESIDENT NIXON WAS APPRECIATED. HE IMPLIED THAT CONFIDENTIAL

CONFIDENTIAL

PAGE 05 MOSCOW 07351 02 OF 02 161539Z

SOVIET FINANCE MINISTRY WAS THE PROBLEM. AT THE SAME TIME, SOVIETS WORRIED ABOUT POLITICAL IMPLICATIONS OF OPPOSING REVENUE SHARING WHILE U.S. SUPPORTS IT.)

B. MARGIN LIMITS BEYOND 200 MILES. KOZYREV SAID HE IS AWARE OF PROPOSALS FOR MARGIN JURISDICTION BEYOND 200 MILES, BUT HAS ONLY BEGUN TO ACQUAINT HIMSELF WITH PROBLEM. FOREIGN MINISTRY WILL STUDY IDEA VERY ATTENTIVELY, TRY TO OBTAIN THE CONSENT OF OTHER AGENCIES, AND EXPRESS SOVIET VIEW ON THE PROBLEM.

17. KOZYREV THEN SPENT CONSIDERABLE TIME ON PROCEDURAL ISSUE. FOLLOWING APPROACH EMERGED FROM KOZYREV-STEVENSON EXCHANGES:

A. SOVIETS CAN AGREE WITH U.S. PROCEDURAL PROPOSALS.

B. SOVIETS SUPPORT IDEA OF AN UNDERSTANDING THAT CARACAS SESSION WILL ACT ONLY AT COMMITTEE LEVEL, NOT PLENARY.

C. U.S. WILL JOIN USSR IN SEEKING GROUP OF FIVE SUPPORT FOR RULE THAT EVEN IN COMMITTEE, A DECISION THAT ALL EFFORTS AT CONSENSUS HAVE BEEN EXHAUSTED REQUIRES TWO-THIRDS RATHER THAN SIMPLE MAJORITY OF STATES PARTICIPATING IN CONFERENCE. AT THE SAME TIME, WE NOTED THAT THIS WILL BE MORE DIFFICULT TO ACHIEVE FOR COMMITTEES THAN FOR PLENARY.

18. COMMENT. CONSULTATIONS WERE FRIENDLY AND PRODUCTIVE. SOVIET LOS POLICY CLEARLY IN RAPIDLY EVOLVING STAGE AND THEY APPEARED TO WELCOME OPPORTUNITY TO REVIEW ISSUES WITH U.S. LOS TEAM IN DETAIL.
STOESSEL

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